REMARKS

The Office examined claims 1-9 & 28-29 and rejected each. With this paper, no claims are added, and one claim is cancelled so that claims 1-9 & 28 are pending. Claims 1 & 28 are the independent claims.

For the sake of fairness to Applicants, and in view of the Office's established practice of allowing claims within a single application to be directed to both a mobile terminal and a base station when the invention relates in part to communication between said mobile terminal and base station, it is respectfully requested that the restriction requirement necessitating withdrawal of claims 10-27 & 30-43 be reconsidered and withdrawn.

Objection to the Specification

At p. 3 of the Office Action, the Office objected to the specification for containing an embedded hyperlink and/ or other form of browser executable code. The specification has been amended so as to obviate the objection.

Claim Objection

At p. 3 of the Office Action, the Office objected to claims 28 and 19 for being directed to a computer program product while depending from a method claim. Applicants assume that the objection was intended to be directed to claims 28 and 29 as claim 19 is not a computer program product claim. Claim 29 has been cancelled, and claim 28 has been rewritten in independent form having limitations corresponding to claim 1 so as to obviate the objection.

Claim Rejections Under 35 USC §101

At p. 33 of the Office Action, claims 28-29 are rejected under 35 USC §101 as being directed to non-statutory subject matter. The Office states that the claimed invention falls in a judicial exception of an abstract idea without a practical application by physical transformation and without a useful and tangible result.

The claims are amended so as to explicitly recite a computer readable storage *medium*. Applicants submit that the remaining computer program product is structurally and functionally interrelated to the media upon which it is encoded. Applicants therefore respectfully request that all rejections under 35 USC 101 be withdrawn.

Claim Rejections Under 35 USC §103

At p. 4 of the Office Action, claims 1-5 & 28-29 are rejected under 35 USC §103(a) as being unpatentable over 3GPP; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (R. 6) 3GPP TR 25.896 V0.3.2. in view of US Pat. No. 7184413 to Beyer et al. (hereinafter Beyer).

The Office states that Beyer discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell.

In grounding its rejection of the main claim, the Office cites Beyer Col. 4, line 62-col. 5, line 22 & col. 17, lines 20-60. The first passage teaches a network node attempting to

connect with other nodes on a network, and upon failure to connect, establishing a single-node network. The second passage teaches collision-resolution mechanisms for network nodes facing temporary inaccuracies in 2-hop neighborhood routing information. Neither passage teaches nor suggests the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell, and issuing scheduling commands for controlling the pointer in the user equipment device if it is in control, but issuing no such commands if it determines it is not in control of the scheduling cell.

Even if 2-hop networks could rightly be considered analogues to cellular communication networks--and Applicants contend they cannot--the Beyer reference is concerned with packet scheduling in *ad hoc* networks. The invention, however, is directed to communication between mobile terminals and fixed Node Bs. The invention solves the different problem of scheduling during a soft handover of a mobile terminal from one Node B to another. In a soft handover, a user equipment (UE) is handed over from a first Node B to another Node B, and during this, is in contact with both, i.e. both receive all communications from the user equipment, and in the prior art, both issue so-called scheduling commands, which, among other things, regulate the maximum allowed power the UE is allowed to use in uplink. The power regulation is done by sending commands that set the value of a pointer so as to indicate one or another maximum allowed power rate. So in the prior art, a UE could receive scheduling commands from each of the two Node Bs involved in a handover, and the commands could be inconsistent.

The invention solves this problem by having a UE transmit to both Node Bs information indicating which is to be the

controlling Node B, and so which is to provide scheduling commands. The information is recited as information indicating which of the two cells involved in the handover is to be the scheduling cell. The Node Bs know which of them controls which cell, and so can tell from the information which of them is to be the controlling Node B. This is not the same as Beyer's teaching.

Beyer instead discloses a node rapidly cycling through a set of common channels that the network operates on. On each channel, the node transmits a short "NetSync Request packet," listens for a short time for a "NetSync Response packet," and transitions to the next channel. If at any point a node in Sync Mode receives a NetSync Request packet, it will send a NetSync Response packet. The NetSync Response packet contains the precise network time, as determined by the transmitting node for the time the packet transmission started, and optionally, the network code. Upon receipt of a packet with the network time and the correct network code, a node in the network acquisition state immediately initializes its network timer to the network time in the NetSync Response packet, adjusted for packet transmission, propagation and processing delays.

Applicants respectfully submit that Beyer is clearly directed to a different problem and teaches a different and unrelated solution. Thus, even if 3GPP TR 25.896 were modified to incorporate Beyer's teachings, the combination would still not include each limitation of the claimed invention. Applicants therefore respectfully request that all rejections under 35 USC 103 be reconsidered and withdrawn.
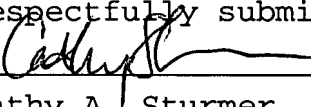
Conclusion

It is believed that all of the claims of the application are in condition for allowance and their passage to issue is earnestly solicited. Applicant's attorney urges the Examiner to call to discuss the present response if anything in the present response is unclear or unpersuasive.

Respectfully submitted,

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Date

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